



WILLIAM T FUJIOKA  
Chief Executive Officer

## County of Los Angeles CHIEF EXECUTIVE OFFICE

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December 9, 2008

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

### **ORDINANCE CODIFYING TECHNICAL CHANGES TO THE MEGAFLEX AND FLEX EMPLOYEE BENEFIT PLANS (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

#### **SUBJECT**

This letter recommends the adoption of an ordinance that codifies previously approved changes in the employee benefit plans known "MegaFlex" and "Flex." Your Board approved these changes on September 16, 2008 and instructed that the requisite ordinance be placed on the agenda for adoption. This letter and the accompanying ordinance satisfy that instruction. In addition, the accompanying ordinance implements technical changes to the MegaFlex benefit known as "elective annual leave" to comply with federal tax law and related Internal Revenue Service (IRS) regulations.

#### **IT IS RECOMMENDED THAT YOUR BOARD:**

Approve the accompanying ordinance amending Title 5 of the Los Angeles County Code to reflect changes to the MegaFlex and Flex employee benefit plans previously approved by your Board, and make other technical changes required by federal tax law and related regulations.

*"To Enrich Lives Through Effective And Caring Service"*

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### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On September 16, 2008, your Board approved changes in health and dental insurance premium rates and other changes in the group insurance benefits that will apply to represented and non-represented County employees in 2009. Included in those recommendations were changes in the 2009 minimum County "floor" contributions to the MegaFlex and Flex cafeteria benefit plans applicable to non-represented employees. In addition, your Board approved an adjustment in the 2009 fee that will be assessed to non-represented employees who use tobacco. Both of these changes will be codified with the adoption of the accompanying ordinance.

The accompanying ordinance also makes a change in the rules relating to the use of the MegaFlex elective annual leave benefit. This change establishes a certain order of usage for elective annual leave in relation to the other types of paid time off that are available to MegaFlex participants.

### **Elective Annual Leave Must Be Used Last**

MegaFlex participants receive both nonelective and elective annual leave in lieu of the more traditional vacation and sick leave benefits received by most other County employees. Nonelective annual leave is earned at the rate of 10 days per year, and elective annual leave is additional time that may be purchased by employees through payroll deductions. Under existing policy, the 10 days of nonelective annual leave an employee earns in the current calendar year must be used before any elective annual leave may be used. Otherwise, there is no requirement to use any other accrued paid leave prior to using elective annual leave.

Proposed IRS regulations intended to take effect on January 1, 2009 require a change in current practice. The regulations require the exhaustion of all forms of accrued time prior to using elective annual leave. This includes all accrued nonelective annual leave, including any unused time earned in prior years. It also includes accrued compensatory time off for overtime worked, accrued holiday time, and accrued vacation and sick leave time (if an employee is sick or injured) earned prior to participation in MegaFlex. The accompanying ordinance amends Title 5 of the County Code to bring it into alignment with the IRS regulations effective January 1, 2009.

### **No Other Required Sequence for the Use for Accrued Time**

Other than the requirement to use all banked time first, we are recommending there be no required order of usage within the various categories of banked time. We are recommending that each MegaFlex participant be allowed the discretion to designate which type of banked time to use first as long as all such available time gets used before any elective annual leave is used. For example, an employee may decide to use accrued compensatory time off before using nonelective annual leave, or accrued holiday time prior to using accrued sick leave earned prior to participating in MegaFlex, as long as all absences are otherwise authorized under the County Code. This flexibility is permitted under the applicable IRS regulations and is authorized by the accompanying ordinance.

The accompanying ordinance will continue the existing policy that provides for refunds equal to the value of any elective annual leave that is purchased by an employee, but unused at year-end. This prevents an unwarranted loss of the employee contributions that go to purchasing this time, and is also permissible under IRS regulations.

### **FISCAL IMPACT/FINANCING**

None. Adoption of the accompanying ordinance will generate no additional County cost. The ordinance merely codifies changes already approved by your Board and ensures compliance with IRS requirements.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The recommended change in the rules relating to the use of elective annual leave is required by federal tax law and the related IRS regulations. All MegaFlex participants were notified of this impending change as a part of the 2009 MegaFlex enrollment process.

The accompanying ordinance has been approved as to form by the County Counsel.

The Honorable Board of Supervisors  
December 9, 2008  
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**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

None.

Respectfully submitted,



WILLIAM T FUJIOKA  
Chief Executive Officer

WTF:DL  
WGL:WW:df

c:     Executive Officer, Board of Supervisors  
        County Counsel  
        Auditor-Controller  
        Department of Human Resources

## ANALYSIS

This ordinance amends Title 5 – Personnel of the Los Angeles County Code relating to

Fringe Benefits by:

- Amending portions of Sections 5.27.040, 5.27.240, 5.28.040 and 5.28.240 relating to cafeteria plan contributions for non-represented employees;
- Amending portions of Sections 5.27.350, 5.27.530, 5.28.350 relating to Non-Elective Annual Leave and Elective Annual Leave timing and usage;
- Amending 5.43.020 relating to tobacco user payment of fee for non-represented employees.

RAYMOND G. FORTNER, JR.  
County Counsel

By:

  
RALVOR S. MELOM

Principal Deputy County Counsel  
Labor & Employment Division

HSM:av

Requested: 10-27-08

Revised: 11-24-08

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Title 5 - Personnel of the Los Angeles County Code, relating to fringe benefits.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 5.27.040 is hereby amended to read as follows:

**5.27.040 Contributions.**

A. Nonelective Contributions. Except as otherwise provided herein, each month the County shall contribute to the Plan on behalf of each Participant an amount equal to the greater of ~~\$735.00~~ \$809.00 or 10 percent of such Participant's Compensation for the preceding month beginning the 2008 2009 Plan Year; provided, however, that no Nonelective Contribution shall be contributed for any Participant if he has not been in a pay status for at least eight hours during the prior month. Nonelective Contributions shall be reflected in County payroll warrants issued on or about the fifteenth day of the month following the month in which the requisite pay status was completed.

...

**SECTION 2.** Section 5.27.240 is hereby amended to read as follows:

**5.27.240 Contributions.**

A. Nonelective Contributions.

1. Except as otherwise provided herein, each month the County shall contribute to the Plan on behalf of each Participant an amount equal to the greater of \$~~987.00~~ \$1,078.00 beginning the ~~2008~~ 2009 Plan Year or the amount designated in subsection A1a or b below, whichever is applicable:

...

**SECTION 3.** Section 5.27.350 is hereby amended to read as follows:

**5.27.350 Special provisions.**

...

B. Timing and Order of Usage. Subject to the provisions of subsection A above, Nonelective Annual Leave may be taken at any time, and Elective Annual Leave may be taken at any time in the current Plan Year; provided, however, that a Participant must use all Nonelective Annual Leave days issued to the Participant on January 1 and all previously banked and available Nonelective Annual Leave, compensatory time off, vacation, holiday time, and if sick, sick leave, before the Participant can use any of the Elective Annual Leave days the Participant purchased for the year. ~~no Participant may use Elective Annual Leave until all Nonelective Annual Leave granted in the current Plan Year has been exhausted.~~ Nonelective Annual Leave and Elective Annual Leave may be used for any purpose approved by the Department Head.

...

**SECTION 4.** Section 5.27.530 is hereby amended to read as follows:

**5.27.530 Limitations on Prior Benefits.**

A. Vacation Benefits.

...

2. All vacation time earned and credited to the books up through and including the Vacation Ending Date shall remain available for use or payoff at termination of County service pursuant to the rules set forth in Chapter 6.18; provided, however, that (a) there shall be no limitations on the accrual and carryover of such time, and (b) such time shall not be used until a Participant has exhausted all of his Nonelective Annual Leave and Elective Annual Leave.

...

**SECTION 5.** Section 5.28.040 is hereby amended to read as follows:

**5.28.040 Contributions.**

A. Nonelective Contributions. Except as otherwise provided herein, each month the County shall contribute to the Plan on behalf of each Participant an amount equal to the greater of ~~\$735.00~~ \$809.00 or 10 percent of such Participant's Compensation for the preceding month beginning the ~~2008~~ 2009 Plan Year; provided, however, that no Nonelective Contribution shall be contributed for any Participant if he has not been in a pay status for at least eight hours during the prior month. Nonelective Contributions shall be reflected in County payroll warrants issued on or about the fifteenth day of the month following the month in which the requisite pay status was completed.

...

**SECTION 6.** Section 5.28.240 is hereby amended to read as follows:



#### **5.28.240 Contributions.**

##### **A. Nonelective Contributions.**

1. Except as otherwise provided herein, each month the County shall contribute to the Plan on behalf of each Participant an amount equal to the greater of \$987.00 \$1,078.00 beginning the 2008 2009 Plan Year or the amount designated in subsection A1a or b below, whichever is applicable:

...

**SECTION 7.** Section 5.28.350 is hereby amended to read as follows:

#### **5.28.350 Special provisions.**

...

B. Timing and Order of Usage. Subject to the provisions of subsection A above, Nonelective Annual Leave may be taken at any time, and Elective Annual Leave may be taken at any time in the current Plan Year; provided, however, that a Participant must use all Nonelective Annual Leave days issued to the Participant on January 1 and all previously banked and available Nonelective Annual Leave, compensatory time off, vacation, holiday time, and if sick, sick leave, before the Participant can use any of the Elective Annual Leave days the Participant purchased for the year. ~~no Participant may use Elective Annual Leave until all Nonelective Annual Leave granted in the current Plan Year has been exhausted.~~ Nonelective Annual Leave and Elective Annual Leave may be used for any purpose approved by the Department Head.

...

**SECTION 8.** Section 5.43.020 is hereby amended to read as follows:

**5.43.020 Payment of fee.**

Any Participant who is a Tobacco User at any time during the 12-month period preceding his annual benefit election under the Plan shall pay the County a fee of ~~\$10.00~~ \$20.00 per month. Such fee shall be collected by payroll deduction and shall commence on the payday occurring on or about the fifteenth of January following said benefit election. In the case of a new Participant, such fee shall become payable on the first payday on which the Participant receives a County contribution to the Plan.

**SECTION 9.** Pursuant to Government Code Section 25123(f), this ordinance shall take effect immediately. If this ordinance becomes effective prior to December 1, 2008, the provisions of Sections 1, 2, 5, 6 shall be construed and applied as if they were effective and operative on and after December 1, 2008. The provisions of Sections 3, 4, and 7 shall be effective and operative on and after January 1, 2009.

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